



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Renewal of Workers Compensation Claim Administration
Service Agreement

MEETING DATE: ~~January 16, 1993~~ February 3, 1993

PREPARED BY: Assistant City Manager

RECOMMENDED ACTION: That City Council review the attached service agreement and authorize its acceptance.

BACKGROUND INFORMATION: The City of Lodi renews its service agreement with its workers compensation third party administrator on an annual basis, every November 1st.

In November 1990, the City first began using Greenfield-Thompson Associates, Inc. (now known as Associated Claims Management, Inc.) as its third party administrator, the service fee was established at \$4,400 per month. Council approved an increase to \$4,750 per month for the year beginning November 1, 1991. This firm has now agreed to a \$4,916.25 fee per month for the 92-93 year, which represents a 3.5% increase relative to last year's fee.

It should be noted that when staff originally began negotiations with this administrator, the administrator had requested a fee of \$5,250 per month (an increase of 10.52%).

This firm justifies its request on the basis that its staff, and employees in this industry in general, are still expecting salary increases in the 5% to 7% range. This has dropped somewhat from a period three years ago when salary increases were generally around 10%. Burnout and turnover amongst third party administrator staff is very high. The philosophy of this firm is to hire sufficient staff to cover the workload, invest in employee training and provide competitive salaries in order to prevent turnover. Clerical support staff at the Pleasanton office were recently increased from a ratio of 1.0 per examiner to 1.5 per examiner. Ultimately, Associated Claims Management, Inc. feels the cost of maintaining a stable, quality staff are lower than those of employee turnover and regular disruptions in the processing of client's claims.

APPROVED

THOMAS A. PETERSON
City Manager



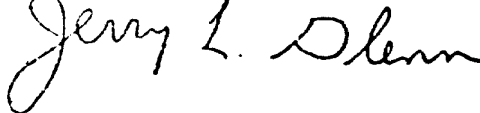
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Renewal of Workers Compensation Claim Administration Service Agreement.
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February 3, 1993

Included in this contract renewal is a managed care/medical cost-containment program. Roberta Penarelli, Executive Vice President has stated that through this program of medical billing reviews, the City could realize a savings of roughly \$25,000 per year, assuming our medical billings fall around \$100,000 per year. For this, a fee of 15% of all savings through the bill review system would be charged, and 30% for savings through negotiated reduced fees with designated medical providers.

FUNDING: Operating budget.

Respectfully Submitted,



Jerry L. Glenn
Assistant City Manager

JLG:KJE:CT

Attachment

Prepared by Kirk J Evans
Administrative Assistant to the City Manager

CCCOM001/TXTA.TLP/WKRSCOMP

SCHEDULE A
to
WORKERS' COMPENSATION SERVICE AGREEMENT
between
CITY OF LODI
and
ASSOCIATED CLAIMS MANAGEMENT, INC. OF CALIFORNIA

ACMI Standard Management Information Services Package includes:

RISK AND FINANCIAL MANAGEMENT REPORTS

- Policy Period Analysis - monthly or quarterly
- Management Summary Report - monthly or quarterly
- Claim Inquiry Summary - monthly or quarterly
- Check Register - weekly or monthly
- Payment Analysis - semi-annually or annually
- IRS Form 1099 - annually

CLAIM MANAGEMENT REPORTS

- Cost Analysis Report - monthly, quarterly, semi-annually or annually
- Claims Listings - monthly or quarterly
- Stratification Listing - quarterly
- Social Security, Employee Multiple Claim List - quarterly, semi-annually, annually
- Self-Insurer's Annual Report (if self-insured) - annually

LOSS PREVENTION REPORTS

- OSHA logs - monthly
- Histograms - annually



WORKERS' COMPENSATION SERVICE AGREEMENT

This Agreement is entered into by and between City of Lodi, hereinafter referred to as "Client," and Associated Claims Management, Inc. of California, a California Corporation, hereinafter referred to as "Associated."

Recitals

1. Whereas, Client has elected to self-insure/insure its Workers' Compensation program in the State of California.
2. Whereas, Associated provides claim administration and management information services to self-insured and insured employers.
3. Whereas, Client and Associated have agreed to enter into a Service Agreement effective November 1, 1992.
4. The foregoing recitals are agreed to by the parties.

In consideration of the mutual promises, covenants and conditions contained herein, and for other good and valuable consideration, the parties hereto agree as follows:

Terms and Conditions

1. Term of Agreement

This Agreement is effective November 1, 1992 and shall be continuous and renewing on an annual basis unless otherwise terminated as stated in Section 6.

2. Consideration

- a. Associated's service fee for the period November 1, 1992 through October 31, 1993 shall be \$4,916.25 per month for up to 125 new claim submissions; over 125 claims at \$400 per claim; no additional fee for on-going open claim inventory.

Page 1 of 7



- b. The charge for field and investigative services and outside services such as mandatory conference, hearing or trial attendance is \$65.00 per hour, plus expenses.
- c. It is recognized that the service fee as negotiated each year represents the expense of administering and adjusting workers' compensation claims submitted during the current contract period, and the fee does not cover the expense involved in processing claims to their ultimate conclusion upon termination of the Agreement.
- d. In the event that legislative changes are made to the Labor Code and/or Self-Insurance Plans requirements which materially effect caseloads and/or change servicing requirements, Associated and Client agree to negotiate a reasonable revision in the fee structure and account staffing levels.
- e. The service fee is payable by Client upon the receipt of Associated's invoice, due and payable by the fifth (5th) day of the month of service.
- f. ACMI has developed a comprehensive managed care/medical cost-containment program designed to significantly reduce the cost of occupational injuries and illnesses by (1) negotiating reduced medical provider fees with designated participating medical providers ("PPO") for medical services rendered at amounts less than their usual and customary charges or the Official Medical Fees for Covered Medical Services rendered, (2) inpatient utilization management, and (3) reviewing medical Billings against the Official Medical Fee schedule.

Client desires to take advantage of the ACMI Managed Care Program in the State of California.

Client agrees to pay an amount equal to 15% of the savings generated by the Bill Review System and 30% of the savings for PPO reductions. Savings shall equal the sum of reductions to the official Medical Fee Schedule and contract reductions, if any, for all billings.

If client directs ACMI not to review billings of certain Providers, client shall provide a list of the said Providers in advance.

Utilization Management Services shall be provided as agreed by Client and ACMI at \$35 - 50 per hour, in accordance with the specific assignment.



3. Responsibilities of Associated

a. Claims Administration

- (1) Associated agrees to provide claims service for Client's Workers' Compensation exposure in the State of California as required by the regulatory bodies of said State and at a level acceptable to Client.

b. Management Information System

- (1) Associated agrees to maintain claims and cost data as well as estimates of future claims liability on an individual claim basis.
- (2) Associated will provide management information services to Client as agreed upon by the parties, in accordance with Schedule A of this Agreement.
- (3) Associated retains sole right of ownership to its programs. However, the Client has a right to the data. In the event of a cancellation of Associated's service, the Client is entitled to a complete history file (tape) of all claims, as well as a record layout describing the format of the tape.

4. Responsibilities of Client

- a. Client shall report to Associated all Workers' Compensation claims in a timely manner and shall cooperate with Associated in all aspects of investigation, communication, the providing of recorded material and any other areas pertinent to Associated being able to provide the agreed service to Client. Associated shall not be responsible, nor be deemed liable for damages, real or otherwise, resulting from Associated's lack of knowledge of information in the possession of Client, but withheld from Associated.

5. Claim Payment Fund

- a. The parties agree Associated will pay claims expenses from a checking account established by Client and funded by Client. The checking account will be maintained by Client at an amount sufficient to cover at least 60 days of the Workers' Compensation claim expense. Associated agrees to make records pertinent to the client's account available to Client for audit purposes at all reasonable times with at least 24 hours notice.
- b. Claims expenses are defined as medical expense, temporary or permanent disability, allocated claims expense, rehabilitation expense, and all other Workers' Compensation benefits payable to the injured employees or dependents of Client.



- c. Allocated claims expense includes such costs as legal fees, court costs, court reporters, expert witnesses, fees to undercover operatives, depositions, and certain special investigations as may be required.

6. Termination

- a. After the first 10 months, this Agreement may be terminated by either party by providing to the other written notice sixty (60) days in advance. In the event of termination, Associated will be obligated to make available all summary data, records and information developed with respect to Client's business including all loss records to Client or its designated agent on the date established by Client. It is recognized that Associated will provide the records in good condition and will cooperate in the transition on behalf of Client.
- b. In the event termination should occur prior to calendar year-end (12/31), Associated will provide Client a IRS Form 1099 hard copy report of all vendor payments made as of termination date; but Associated will not assume responsibility for year-end IRS reporting (including tape production) and vendor notifications for that calendar year.
- c. After the termination date of this Agreement, Client may, at its option, designate Associated to continue to manage all claim files with injury dates prior to the termination date of this Agreement, for a fee of 17.5% of paid claims, or on a time and charges basis at a rate agreed to by the parties.
- d. Any notice required by this Agreement of the parties hereto shall be sent by first class mail, postage prepaid to the parties' addresses first set forth below.

7. Compliance with Applicable Law

- a. Associated and Client hereto acknowledge the various penalties and administrative fines that are contained in the California Workers' Compensation Reform Act of 1989 (effective as of January 1, 1990 and January 1, 1991) that may be imposed on both employers and claim administrators. Penalties arising from the failure of Client to provide timely notice of claim or such other Client obligations shall be and remain the sole responsibility of Client and the Client hereby agrees to indemnify, defend and hold Associated harmless for all claims arising from the imposition of such penalties.

Associated shall have no responsibility or liability whatsoever to defend, pay or otherwise be responsible for, any administrative claim, fine or penalty imposed at any time after commencement of the effective term of this Agreement, if such administrative claim, fine or penalty (regardless of when assessed) arises from the facts, errors or omissions of the claim administrator or any other party acting on behalf of Client prior to Associated becoming Client's claims administrator unless



Associated shall have acknowledged the existence of such administrative claim, fine or penalty in writing and agree to assume liability therefore.

Client shall defend, indemnify and hold Associated harmless from any and all such undiscovered penalties that may have accrued prior to Associated's becoming responsible for the administration of Client's Workers' Compensation self-insurance program. Administrative penalties arising solely from the failure of Associated to comply in a timely and proper manner with its duties as a claim administrator shall be and remain the sole responsibility of Associated; provided however, effective upon the cancellation, discharge or termination of this Agreement for any reason whatsoever, Associated shall no longer be liable or otherwise responsible for payment or reimbursement of any administrative fine, claim or penalty arising from facts occurring during the term of this Agreement (including facts involving administrative procedures conducted by Associated), but not assessed until after termination of this Agreement, unless Associated is notified of the scheduled audit within 48 hours of commencement of the audit and is allowed to participate in the daily audit process, having access to all files in questions, and is allowed to participate in the exam interview process to include negotiation and/or defense of any alleged administrative fines or penalties, and otherwise Client shall defend, indemnify and hold Associated harmless from any and all such fines, claims or penalties.

- b. The parties acknowledge that the California Workers' Compensation Reform Act of 1989 requires first payment of Temporary Disability Indemnity within 14 days of the Client's knowledge of the injury and generally imposes an automatic penalty of 10% of the amount delayed for late indemnity payments which shall be payable directly to the injured employee without application. Furthermore, the parties agree that, unless Associated is provided with written notice of the claim in the form of the completed Employer's Report of Occupational Illness or Injury, Form 5020, within 7 days of the Client's knowledge of the injury, the above-referenced automatic penalty of 10% shall be and remain the sole responsibility of the Client.
- c. Additionally, ACMI shall not be responsible for such penalties and/or administrative fines in the event client requires open indemnity caseloads in excess of the State of California, Self-Insurance Plans Office's recommendation.

8. General Conditions

- a. Associated shall assume legal liability to indemnify, hold free and harmless and defend Client, its agents, servants, employees, officers and directors against any and all loss, damage, fines, liability, costs and expenses (including, but not limited to, attorney fees, court costs and reasonable investigative and delivery costs) and other such sums which Client, its agents, servants, employees, officers and/or directors may reasonably pay or become obligated to pay on account of the acts of negligence of Associated, its agents or employees, officers or directors. Client



agrees to notify Associated promptly in writing in the event such claim, demand, assertion of liability or action is brought to Client's attention.

- b. Associated agrees to perform the services of adjustment of the Workers' Compensation claims and at all times, control the disposition of such claims including those in litigation subject to the direction of the Client. The services to be rendered are to be within the standards acceptable in the field of Workers' Compensation including Longshore and Harbor Workers' plans.

In the event Client directs Associated to follow a specific request of Client in the handling of any claim adjustment, Client agrees to hold Associated harmless for any loss, cost, or expense should a claim or lawsuit thereafter be filed involving Associated. This Agreement is not intended to hold Associated harmless for any independent negligence of Associated in any matter arising from this Agreement.

- c. Client shall not be liable to Associated for personal injury of Associated employees or property damage sustained by Associated in the performance of the services specified in this Agreement.
- d. Because of the comprehensive data Associated provides to Client and the timely manner in which it is provided, Client has sufficient information to provide to other parties that Client may have legal, contractual or other obligations for said reporting, and it is deemed Client's responsibility to perform such reporting. Unless otherwise stated, Client is responsible to report any claim or event within the reporting criteria to Client's appropriate insurance broker, insurance carrier, or to any other interested party.
- e. The parties each agree and acknowledge that their respective employees, officers, and directors are valuable elements of their respective organizations and that therefore it would be of substantial detriment to the welfare of each such organization if either party solicited, enticed or otherwise initiated discussions leading to the employment of the other party's employees, officers or directors. Accordingly, during the effective term hereof and for a period of eighteen (18) months after expiration of this Agreement, each party agrees not to directly or indirectly engage in any solicitation, invitation or discussion with any employee, officer or director of the other with a view toward engagement of such individual as an employee, consultant, representative, officer or director.
- f. Any controversy arising out of, or relating to this Agreement or any document or other agreement referenced in this Agreement, or any modification or extension hereof or thereof, including any claim for damages or rescission, shall be settled by arbitration before three (3) neutral arbitrators in accordance with the rules then obtaining of the American Arbitration Association. Any such arbitration shall be conducted and determined in Contra Costa County, California. The decision of the arbitrators shall be binding on the parties. The award rendered by the arbitrators shall be final and judgment, subject to any right of appeal permitted by law, may be entered upon it in any court having jurisdiction thereof.



The prevailing party shall be entitled as part of the award, to all reasonable fees and expenses incurred in connection with the arbitration, including the fees and expenses of the arbitrators, and including reasonable attorneys' fees.

- g. While performing the specified services, Associated is an independent contractor and not an agent or employee of Client.
- h. Changes and modifications to this Agreement may be made by the mutual written consent of the parties.

Accepted By:

City of Lodi

By: _____

Authorized Signature

Name (Type or Print)

Title

Street

City, State, Zip

Date

Accepted By:

Associated Claims Management, Inc.
of California

By: Roberta Penarelli

Authorized Signature

Roberta Penarelli

Name (Type or Print)

Executive Vice President

Title

390 North Wiger Lane

Street

Walnut Creek, CA 94598

City, State, Zip

January 28, 1993

Date



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F/U
2/3/93



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- f. Any controversy arising out of, or relating to this Agreement or any document or other agreement referenced in this Agreement, or any modification or extension hereof or thereof, including any claim for damages or rescission, shall be settled by arbitration before three (3) neutral arbitrators in accordance with the rules then obtaining of the American Arbitration Association. Any such arbitration shall be conducted and determined in Contra Costa County, California. The decision of the arbitrators shall be binding on the parties. The award rendered by the arbitrators shall be final and judgment, subject to any right of appeal permitted by law, may be entered upon it in any court having jurisdiction thereof.



The prevailing party shall be entitled as part of the award, to all reasonable fees and expenses incurred in connection with the arbitration, including the fees and expenses of the arbitrators, and including reasonable attorneys' fees.

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Accepted By:

Accepted By:

City of Lodi

Associated Claims Management, Inc.
of California

By: Thomas A. Peterson
Authorized Signature

By: Roberta Penarelli
Authorized Signature

Thomas A. Peterson
Name (Type or Print)

Roberta Penarelli
Name (Type or Print)

City Manager
Title

Executive Vice President
Title

221 W. Pine Street
Street

390 North Wiget Lane
Street

Lodi, CA 95240
City, State, Zip

Walnut Creek, CA 94598
City, State, Zip

February 3, 1993
Date

January 28, 1993
Date

Attest: Jennifer M. Perrin
Jennifer M. Perrin
City Clerk

Approved as to form Bob McNatt
Bob McNatt
City Attorney

Date: 2-5-93



SCHEDULE A
to
WORKERS' COMPENSATION SERVICE AGREEMENT
between
CITY OF LODI
and
ASSOCIATED CLAIMS MANAGEMENT, INC. OF CALIFORNIA

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